

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

PARKERSBURG DIVISION

KATHY V. DYE,

Plaintiff,

v.

CIVIL ACTION NO. 6:06-cv-00531

JOHN E. POTTER,

Defendant.

ORDER

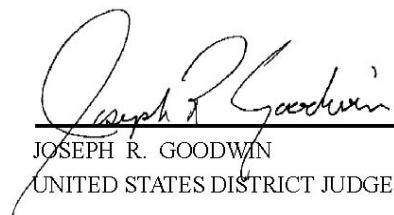
Pending before the court is the defendant's Motion to Dismiss [Docket 10]. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendations for disposition, pursuant to 28 U.S.C. § 636(b)(1) (2006). On May 23, 2007, the Magistrate Judge submitted findings of fact and recommended that this court **GRANT** the defendant's motion to dismiss the plaintiff's claims concerning gender discrimination because the plaintiff failed to exhaust her administrative remedies on those claims. Further, the Magistrate Judge recommended that the court dismiss the plaintiff's claims of retaliation as alleged in paragraphs 13, 14, 15, 16, 17 and 19 of the complaint because this court lacks jurisdiction to consider those claims that were dismissed by the agency as untimely or for failure to state a claim, or both. The plaintiff's claims stated in paragraphs 18, 21, 22, 23, and 24, however, will remain before the court because the plaintiff exhausted her administrative remedies as to those five claims before the agency. On June 1, 2007, the plaintiff filed an objection

to the Magistrate Judge's findings [Docket 16]. After reviewing the Magistrate Judge's findings and the plaintiff's objection *de novo*, I **FIND** that the plaintiff's objection is without merit.

Accordingly, the court accepts and incorporates herein the findings and recommendations of the Magistrate Judge. The court **GRANTS** the defendant's Motion to Dismiss the plaintiff's gender discrimination claims. Further, the court **DISMISSES** the plaintiff's claims of retaliation alleged in paragraphs 13, 14, 15, 16, 17, and 19 of the complaint. Thus, the plaintiff's retaliation claims alleged in paragraphs 18, 21, 22, 23, and 24 of the complaint remain before the court.

The court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented parties.

ENTER: June 12, 2007



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE